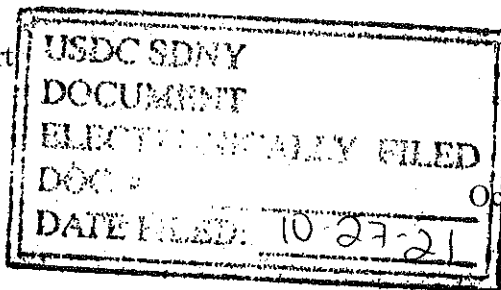


## LAW OFFICE OF AMY JANE AGNEW

Honorable Loretta A. Preska  
 Senior Justice, United States District Court  
 Southern District of New York  
 500 Pearl Street  
 New York, New York 10007



October 27, 2021

VIA ECF

Re: *Milburn v. Dogin, et al.*, 79-cv-5077  
 Order for OMH to Accept Unwitnessed Releases

Dear Judge Preska:

Class Counsel writes to respectfully request an order directing that the New York State Office of Mental Health, a third party at this time, accept HIPAA compliant releases from *Milburn* class members so that we can gain copies of class members' mental health records for use in the litigation. To date, we have about forty-six (46) releases from Green Haven patients made out to the NYS OMH so we can gain copies of their medical records. (Exhibit 1.) Unfortunately, OMH requires that a patient have a "witness" to their signature. This is VERY hard for incarcerated patients to arrange. In several past instances, this office has had to beg an incarcerated individual's counselor to arrange a call out, call the patient to his/her office, and witness the OMH Release. This is not something we could coordinate on great scale at Green Haven Correctional Facility. The Court will note that there are a few instances where patients gained witness signatures from a friendly correction office. We did request that class members use best efforts to try and gain a witness, however, it is difficult for many patients. Accordingly, we had to accept many releases without a witness signature.

We intend to serve a subpoena, along with the releases, on NYS OMH to gain the records. Past experience cautions that OMH will not accept unwitnessed releases. Accordingly, Class Counsel respectfully requests an order directing OMH to accept the releases without witness signatures given the sheer number of patients and our inability to arrange witness signatures. These records will be important to our prosecution of the second phase of the termination litigation.

With our thanks for the Court's continuing courtesies.

Very truly yours,

/s/ AJ Agnew

Amy Jane Agnew, Esq.

SO ORDERED

LORETTA A. PRESKA  
 UNITED STATES DISTRICT COURT

cc: Counsel of Record (VIA ECF)